



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2014-37 Legistar #: 20140858

Board of Zoning Appeals Hearing: Monday, August 25, 2014 – 6:00 p.m.

Property Owner: Kennesaw Memorial Park
Attn: Dave Hass
1306 Whitlock Avenue
Marietta, GA 30064

Address: 1306 Whitlock Avenue

Land Lot: 03250 District: 20 Parcel: 2180

Council Ward: 2A Existing Zoning: R-2 (Single Family Residential 2 units/acre)

Special Exception / Special Use / Variance(s) Requested:

1. Special land use permit for above ground mausoleum with no utilities. [§708.02(D) (2)]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



View of chapel where mausoleum will be built



View from road where mausoleum will be built



View next to chapel where mausoleum will be built

Recommended Action:

Approval. The applicant, Eddie Lummus with Kennesaw Memorial Park, is requesting a Special Land Use Permit for a cemetery and mausoleum, which will allow him to construct a new above-ground mausoleum with no utilities. The property is an existing cemetery, with a mausoleum, that is zoned R-2 (Single-Family Residential (2 units/acre)). Carriage Oaks, a single family detached subdivision zoned R-3, is located to the north and east of the subject property. To the west is Kennesaw Mountain National Battlefield Park, which is outside of the city limits.

Kennesaw Memorial Park was developed prior to the addition of the current regulations, and as such is considered “grandfathered” or a nonconforming use. However, in order to allow any expansion of the cemetery, or to allow a new building, the applicant must obtain a Special Land Use Permit.

Current regulations under Section 708.02 (D) allow mausoleums in R-2 as a Special Land Use by the Board of Zoning Appeals, provided the following conditions can be met:

- a) Minimum lot size is 10 acres.
- b) A 25 foot undisturbed buffer be established around the perimeter of the use with a solid fence or wall no less than six feet in height.
- c) All buildings must be set back at least 25 feet from the buffer.
- d) All graves be set back 10 feet from the buffer.
- e) No graves may be placed within any required setback.
- f) Funeral homes and mausoleums must have 20,000 square feet dedicated solely to their use.

The cemetery is comprised of approximately 70 acres, with a 25 foot undisturbed buffer established around the perimeter, and all buildings are at least 25 feet from the buffer. All of the grave sites are set back 10 feet from the buffer and no graves are within any required setback. The location for the proposed mausoleum will be well within all setback requirements.

The zoning regulations also state that, when considering the approval of a Special Land Use Permit, the Board should consider, at a minimum, the following issues to determination whether or not to grant a Special Land Use Permit:

1. Whether or not there will be a significant adverse effect on the neighborhood or area in which the proposed use will be located.
2. Whether or not the use is compatible with the neighborhood.
3. Whether or not the proposed use will constitute a nuisance as defined by state law.
4. Whether or not property values of surrounding property will be adversely affected.
5. Whether or not adequate provisions are made for parking and traffic considerations.
6. Whether or not the site or intensity of the use is appropriate.
7. Whether or not adequate provisions are made regarding hours of operation.
8. The location or proximity of other similar uses (whether conforming or nonconforming).
9. Whether or not adequate controls and limits are placed upon commercial deliveries.
10. Whether or not adequate landscaping plans are incorporated to ensure appropriate transition.
11. Whether or not the public health, safety and welfare of the surrounding neighborhoods will be adversely affected.

Kennesaw Memorial Park was established over 60 years ago and although considered a nonconforming use due to more recent code changes, still meets the subject criteria under the code and will not have a negative impact on the site or surrounding area. **Staff recommends approval** of this variance.